

EXHIBIT A

FILED
San Francisco County Superior Court

APR 26 2007

GORDON PARK, Clerk
BY: *Deborah Stepp*
DEBORAH STEPP, Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

SEP 28 2007 - 9⁰⁰AM

SUPERIOR COURT OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT 212

GEORGE CHEN,

PLAINTIFF,

v.

UNITED WAY OF THE BAY AREA AND
DOES 1-10, INCLUSIVE,

DEFENDANTS.

CASE NO. **CGC-07-462789**

**VERIFIED COMPLAINT FOR
WRONGFUL TERMINATION
IN VIOLATION OF PUBLIC
POLICY AND LIBEL**

JURY TRIAL DEMANDED

COMES NOW Plaintiff GEORGE CHEN ("Plaintiff") and hereby complains and
alleges as follows:

PARTIES

1. Plaintiff Chen is a citizen of the State of California, and is a resident of Walnut Creek, California.
2. Plaintiff is informed and believes that Defendant UNITED WAY OF THE BAY AREA ("UWBA") is a charitable organization with its headquarters in San Francisco, California.
3. Plaintiff is ignorant of the true names and capacities of defendants sued herein as Does and therefore sue these defendants by such fictitious names. Plaintiff will amend upon

1 ascertainment of true names or capacities. Plaintiff is informed and believes that the
2 fictitiously-named defendants are responsible in some manner for the occurrences herein
3 alleged, and that Plaintiff's damages as herein alleged were proximately caused by or
4 contributed to by such defendants.

5 JURISDICTION AND VENUE

6 4. This Court has jurisdiction over this action. Venue is appropriate in the Superior
7 Court of California, County of San Francisco because a substantial part of the events or
8 omissions giving rise to the alleged claims in this Complaint occurred in San Francisco,
9 California.

10 FACTS COMMON TO ALL CAUSES OF ACTION

11 5. Plaintiff hereby incorporates by reference paragraphs 1 through 4 of this
12 Complaint and make them part of this instant cause of action as though fully set forth herein.

13 6. Plaintiff is an experienced financial officer, having served as Chief Financial
14 Officer to two private companies and having contributed to dramatic financial turnarounds at
15 both companies.

16 7. Plaintiff was employed by defendant UWBA beginning on or about May 16,
17 2001, as Chief Financial Officer, reporting to Executive Director Anne Wilson ("Wilson").

18 8. UWBA suffered, and suffers, from a reputation as an organization that has high
19 overhead due to inefficiency and negligent, self-indulgent management.

20 9. Mr. Chen identified serious instances of negligence, including UWBA's
21 entrusting its operations and financial management to a purported "spin-off" company, which
22 was obviously incapable of performing the tasks entrusted to them. He identified to UWBA
23 management his concerns with this Company's viability, including questionable financial
24 controls and accounting practices engaged in by this purported "spin off" company, but UWBA
25 management refused to correct the situation because of longstanding business ties to the
26 management of the purported spin-off. This arrangement ended only when the purported spin-
27 off company collapsed, causing severe financial losses for UWBA.

28 10. During his tenure, Plaintiff identified numerous instances of improper financial

1 management and reporting. For example, UWBA management attempted to avoid reporting
2 pension plan liabilities for certain employees. UWBA was advised by outside advisers that
3 these liabilities had to be reported. Mr. Chen refused to sign off on UWBA's financial
4 statements until the liabilities were properly reported. Similarly, UWBA management
5 attempted to inflate the revenue received during its campaigns and only reported the revenues
6 properly when Mr. Chen stated he would not sign off on UWBA financial statements that
7 reported revenue properly.

8 11. Plaintiff identified to UWBA management payments to union officials that were
9 improper uses of UWBA funds. In particular, UWBA made payments to and for the benefit of
10 purported employees who performed no actual work for UWBA. When Plaintiff pointed out
11 this practice to UWBA management, UWBA management responded by attempting to create
12 job descriptions for these individuals in order to make a false record of services performed by
13 them.

14 12. In 2006, Plaintiff had significant disputes with UWBA management, including
15 an attempt by UWBA management to misreport revenue received. As with other attempts to
16 report revenue improperly, Plaintiff reminded UWBA management that he could not and would
17 not sign off on financial statements that were not completely accurate. In response, the
18 Executive Director of UWBA threatened to fire him. She also stated that as Executive
19 Director, she could do whatever she wanted with respect to financial reporting. Eventually,
20 consultations with outside advisors confirmed Plaintiff's view that the reporting favored by
21 UWBA management was improper.

22 13. When Plaintiff assumed control of UWBA's finances, UWBA's unrestricted
23 reserves were approximately \$8 million, which put the agency in a precarious financial
24 position. Through his efforts, UWBA's unrestricted reserves rose to over \$23 million as of
25 June 30, 2006. This improvement was accomplished despite the fact that annual campaign
26 revenue declined from \$59 million in FY 2000 to less than \$35 million in FY 2006 due in large
27 measure to public disenchantment with UWBA's negligent, self-indulgent management.

28 14. When UWBA's reserves showed improvement, UWBA management attempted

1 a reorganization which significantly increased the compensation of favored UWBA executives
2 and which would have increased the overhead for the agency by over 35%. Management's
3 proposed budget would be unacceptable in any organization, but was unconscionable in an
4 agency supposedly seeking to repair a reputation for inefficiency and negligent, self-indulgent
5 management which wasted donor funds. Plaintiff stated that he would not recommend the
6 budget to the Finance Committee for approval. Because of his action, the budget was revised
7 so that the increased overhead was about half of what was originally proposed.

8 15. In July, 2006, Plaintiff returned from vacation to learn that UWBA management
9 was seeking to change the already-approved budget in order to restore the cuts in proposed
10 overhead that had been made at Plaintiff's insistence. Plaintiff pointed out that there had never
11 been midstream changes in a budget approved by the Board and that the changes proposed
12 would have restored the overhead to the level that he had refused to endorse to the Board.
13 During this same period, Plaintiff approached the labor representatives about reducing clearly
14 improper payments for rent for union officials at offices at union headquarters. Such payments
15 are unlawful under the Labor Management Relations Act.

16 16. On August 1, 2006, Mr. Chen was suspended on the ground that there had been
17 complaints that he created a "hostile work environment." Plaintiff had never previously been
18 informed on any such complaints or any complaints about his interactions with subordinates or
19 co-workers. He was given no specifics, but was directed to leave work immediately and not to
20 contact any UWBA staff, volunteers, committee or Board members. UWBA management then
21 had an "investigation" conducted in which Plaintiff was never told what the specific
22 accusations were or asked to respond to or explain his side of any specific complaints. On
23 August 26, 2006, he was terminated on the basis that he had created a "hostile work
24 environment: because "people were intimidated."

25 17. The true reason for his termination was his refusal to allow or sign off on
26 improper financial reporting and his questioning of financial practices that were improper or
27 unlawful. UWBA management found Plaintiff's insistence on following the law to be an
28 unwelcome interference with what management saw as their right to engage in negligent, self-

1 indulgent management of donor's funds.

2 **FIRST CAUSE OF ACTION**
3 **(TERMINATION IN VIOLATION OF PUBLIC POLICY)**

4 18. Plaintiff hereby incorporates by reference paragraphs 1 through 17 of this
5 Complaint and make them part of this instant cause of action as though fully set forth herein.

6 19. It is the public policy of California provided for in California Corporations Code
7 § 6812 and elsewhere that charitable non-profit corporations engage in accurate financial
8 reporting and that they handle donor's funds with care and in a manner calculated to achieve
9 the best use of donor's funds. Officers and directors are charged with ensuring that financial
10 reports regarding the financial condition of the corporation are not willfully false or
11 exaggerated in order to induce contributions.

12 20. It is the public policy of the United States of America that no employer or other
13 person provide payments to unions or union officials except payments for services rendered as
14 an employee.

15 21. Plaintiff was terminated because he insisted on actions that complied with the
16 public policies provided for in paragraph 19 above and because he opposed actions that
17 violated the public policy provided in paragraph 20 above.

18 22. The actions complained of constitute termination in violation of Public Policy of
19 the State of California.

20 **SECOND CAUSE OF ACTION**
21 **(LIBEL)**

22 23. Plaintiff hereby incorporates by reference paragraphs 1 through 22 of this
23 Complaint and make them part of this instant cause of action as though fully set forth herein.

24 24. Plaintiff has extensive experience as a Chief Financial Operator, a Chief
25 Operating Officer and other highly responsible positions in the field of accounting and finance
26 throughout his career. He has performed with distinction everywhere he has been employed,
27 including at UWBA.

28 25. On or about August 26, 2006, Defendant UWBA communicated to Plaintiff that

1 he was being terminated for creating a "hostile environment."

2 26. Defendant UWBA's explanation for terminating Plaintiff was false in that
3 Plaintiff did not create a hostile environment and it was intentionally misleading because it
4 falsely implied sexual harassment, using a phrase that is associated with sexual harassment.

5 27. Defendant UWBA knew at the time of making these statements that the reason
6 given to Plaintiff for termination was false.

7 28. It was reasonably foreseeable that Plaintiff would be forced to republish these
8 false statements in response to questions from prospective employers as to the reason given to
9 him for his termination.

10 29. During Plaintiff's search for employment, Plaintiff was under a strong
11 compulsion to disclose, and in fact did disclose, to the state employment agency and executive
12 recruiters the false reasons stated by Defendant for his termination.

13 30. As a proximate result of the above-described publication, Plaintiff has suffered
14 loss of his good business reputation, shame, mortification, and hurt feelings.

15 31. As a further proximate result of the above-described publication, Plaintiff has
16 suffered damage in that he has been unable to secure employment and suffered loss in excess of
17 forty thousand (\$40,000.000) as a result of Defendant UWBA's defamatory statements.

18 32. The above-recited statements of Defendant UWBA were done with malice,
19 fraud, oppression, in that UWBA knew at the time of making the statements that the statements
20 were untrue, and thus Plaintiff seeks an award of punitive damages.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 23 1. For damages for lost compensation, pain and suffering;
24 2. For punitive damages in an amount to be determined at trial;
25 3. For interest on the sum of damages awarded, calculated from August 26, 2006 to
26 the date of judgment;

27 ///

4. For reasonable attorneys' fees and cost of suit incurred herein, and
5. For such other relief as the court deems proper.

DATED: APRIL 26, 2007

DILLINGHAM & MURPHY, LLP
WILLIAM GAUS
BARBARA L. HARRIS CHIANG

BY:


ATTORNEYS FOR GEORGE CHEN

VERIFICATION

I, George Chen declare:

I am a party to this action, and I have read the foregoing Complaint for Wrongful Termination in Violation of Public Policy and Libel and know its the contents. The matters stated in the Complaint for Wrongful Termination in Violation of Public Policy and Libel are true based on my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 26, 2007 at San Francisco, California.



GEORGE CHEN